

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
WESTERN DIVISION

DONYALE JERREL HOLLOWAY

PETITIONER

VS.

CRIMINAL NO. 5:17-cr-1(DCB)

CIVIL NO. 5:15-cv-39(DCB)

UNITED STATES OF AMERICA

RESPONDENT

ORDER

This cause is before the Court on Petitioner Donyale Jerrel Holloway ("Holloway")'s Motion to Vacate Pursuant to Title 28 U.S.C. § 2255 (docket entry 160).

On April 23, 2018, the United States filed its Motion for Affidavit from Movant's Former Counsel and to Extend Time to File Government's Response (docket entry 161). The Court granted the Motion on August 28, 2018. However, Holloway's former counsel, Thomas M. Fortner, Esq., has not filed an Affidavit regarding Holloway's allegations of ineffective assistance of counsel as ordered by the Court.

On October 19, 2018, Holloway filed a Motion to Amend his Motion Under 28 U.S.C. § 2255 (docket entry 175). The United States responded (**docket entry 176**) with a Motion Requesting an Affidavit from Attorney Fortner directing him to respond to Holloway's Motion to Vacate (docket entry 160) and Holloway's Motion to Amend (docket entry 175). Particularly, the United States points out that Holloway's original Motion and Motion to Amend allege ineffective assistance of his counsel, and that the Government needs development of the record through affidavit of Attorney Fortner in order to

fully respond to Holloway's allegations.

ACCORDINGLY,

IT IS HEREBY ORDERED that the United States' Motion (**docket entry 176**) Requesting an Affidavit from Attorney Fortner (directing him to respond to Holloway's Motion to Vacate and Holloway's Motion to Amend) is GRANTED;

FURTHER ORDERED that Holloway's former counsel, Thomas M. Fortner, Esq., shall file a responsive affidavit to the Movant's Motion to Vacate and Motion to Amend with the Clerk of Court (with copies of the affidavit to be provided to the Government) within 30 days from the date of entry of this Order;

FURTHER ORDERED that the Government shall file its Response no later than thirty days after the submission of the above referenced affidavit.

SO ORDERED, this the 5th day of November, 2018.

/s/ David Bramlette
UNITED STATES DISTRICT JUDGE